

Leavy, Jacqueline

From: Bailey, KevinJ
Sent: Wednesday, February 08, 2017 6:08 PM
To: Leavy, Jacqueline
Cc: Gaines, Cynthia
Subject: FW: Letter from Mayor Condon, City of Spokane
Attachments: 2.3.2017 Donald Benton and Doug Eriksen EPA.docx.pdf

Hello Jacqueline,

Please see the email chain below. I wanted to make sure I passed the attached letter along to OEX so it can get processed. Thanks.

Kevin J. Bailey
Director, Resources Management and Operations Division
Office of Congressional and Intergovernmental Relations
U.S. Environmental Protection Agency
(o) 202.564.2998
(f) 202.501.0144

From: Richardson, RobinH
Sent: Wednesday, February 08, 2017 6:04 PM
To: Bowles, Jack <Bowles.Jack@epa.gov>; Bailey, KevinJ <Bailey.KevinJ@epa.gov>
Subject: FW: Letter from Mayor Condon, City of Spokane

FYI – I think this goes to OEX, right? Kevin, who should we make sure has it in OEX? Thank you! Robin

Robin H Richardson
Principal Deputy Associate Administrator
Office of Congressional and Intergovernmental Relations
U.S. Environmental Protection Agency
202-564-3358 (desk)
703-581-5814 (cell)
richardson.robinh@epa.gov

From: Benton, Donald
Sent: Wednesday, February 08, 2017 5:45 PM
To: Minoli, Kevin <Minoli.Kevin@epa.gov>; Schnare, David <schnare.david@epa.gov>; Anderson, Denise <anderson.denise@epa.gov>
Cc: Richardson, RobinH <Richardson.RobinH@epa.gov>; Bangerter, Layne <bangerter.layne@epa.gov>
Subject: FW: Letter from Mayor Condon, City of Spokane

Kevin, This is an official request from a local government official to reconsider a water rule. He is also asking to schedule a phone meeting to discuss the matter.

While I want to honor his request for a call, I am not certain his phone call should be with me, or at least not just me. We should include career professionals from our water office and our region 10 office on the call-I think.

Please give me your advice on how to handle this and whether Denise should schedule the call.

Don
Senator Don Benton
Senior White House Advisor
Office of the Administrator
202.564.4711



From: Cote, Brandy [<mailto:bcote@spokanecity.org>]
Sent: Wednesday, February 8, 2017 4:26 PM
To: Benton, Donald <benton.donald@epa.gov>; Ericksen, Doug <ericksen.doug@epa.gov>
Cc: Simmons, Scott M. <smsimmons@spokanecity.org>; Feist, Marlene <mfeist@spokanecity.org>; Nunes, Gina <gnunes@spokanecity.org>
Subject: Letter from Mayor Condon, City of Spokane

Dear Mr. Benton and Mr. Ericksen,

Please find the attached letter from Mayor Condon relating to water quality standards in Washington State. We would also like to request an appointment for a phone call with Mayor Condon at your earliest convenience. I've copied our scheduler, Gina Nunes, to assist in this regard.

Sincerely,

BRANDY COTE | CITY OF SPOKANE | DIRECTOR, OFFICE OF THE MAYOR
509.625.6774 | bcote@spokanecity.org | spokanecity.org



Emails and attachments sent to or from the City, including personal information, are presumptively public records that are subject to disclosure. - Chapter 42.56 RCW



Mayor David A. Condon

February 7, 2017

Donald Benton, Senior White House Adviser for the EPA Transition
Doug Ericksen, Communications Director for the EPA Transition
USEPA Headquarters
William Jefferson Clinton Building
1200 Pennsylvania Avenue, N. W.
Mail Code: 1101A
Washington, DC 20460

Dear Mr. Benton and Mr. Ericksen:

Congratulations on your appointments to assist with the transition of the U.S. Environmental Protection Agency (EPA). It is good to see Washington state represented in this important work.

In your new capacities with EPA, I thought it was critical to inform you about a major issue facing the Spokane area and truly the entire state of Washington. In mid-November 2016, the EPA effectively threw out the Washington State Department of Ecology's (Ecology) water quality standards for Washington state in favor of its own. The EPA then rushed the new rule to publication and it took effect at the end of December. I am hopeful that this rule could be reconsidered, along with so many others that proceeded after the November election.

As Mayor of the City of Spokane (City), it is my responsibility to protect our citizens, our economy, and our river. We are doing that today. Unfortunately, the new EPA water quality standards threaten all of those values.

The City is committed to improving the health of the Spokane River. We have embarked on investments totaling more than \$340 million to keep pollutants out of this incredible public asset. The City, in concert with the Spokane region and Ecology, has been a leader in developing innovative and direct-to-implementation projects which specifically address and reduce PCBs and other toxics in our watershed. We celebrate the river as our greatest natural asset and seek to protect it for future generations.

Consistently, over the past several years, the City has supported Ecology's process to update the Water Quality Standards for Protecting Human Health (fish consumption rates) as found in Chapter 173-101A of the Washington Administrative Code (WAC). Ecology worked hard to develop a thoughtful water quality rule, with PCBs set at 170 ppq, based on sound science in order to protect human health. The DOE rule considered the unique attributes of the state's watersheds, the discharges within our state, and the efforts which have been undertaken to reduce pollution in Washington. We applauded DOE's efforts in developing criteria for PCBs, arsenic,

The City of Choice

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February 7, 2016

Donald Benton, Senior White House Adviser for the EPA Transition

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and methyl mercury that used scientific standards, common sense, and conditions within Washington state.

Instead of supporting this collaborative process, the EPA turned Ecology's thoughtful and science-based rule on its head, leaving Ecology with a nearly impossible compliance workload, municipal dischargers with unachievable and immeasurable standards, and the public with a tremendous impending financial drain on the economy without a reasonable expectation of an increased health benefit. We are particularly concerned about the numerical limits for PCBs in the EPA rule. That standard, at 7 ppq, is unachievable with any current or anticipated technology. There aren't tests that can effectively measure PCBs at that level, and there is no evidence that the standard will provide an increased health benefit for citizens.

The City strongly supported Ecology's reasonable approach to meeting water quality standards—an approach that considers affordability for our citizens, available technology, and achievable timelines. The City is especially concerned about maintaining affordability of its utility services to assist our families. In 2015, the City's median household income (MHI) was \$44,350, considerably lower than the City of Seattle's MHI of \$75,331, the state's MHI of \$64,129, and the U.S.'s MHI of \$55,775. As a result, the City has committed to limit annual utility rate increases to inflation for the next 20 years and still achieve the environmental results previously set for the City.

Washington is a delegated state. Washington state—by EPA's own admission—is already one of the most environmentally protective states in the nation. In fact, the past EPA Region 10 Director Dennis McLerran was quoted in the news release which announced the EPA water-quality standards as saying, "Washington maintains one of the strongest water programs in the entire nation." Yet, the federal agency still elected to override Ecology's good work, ignore the input of Washington citizens, businesses, and government agencies, and render standards for particular pollutants that are frankly unattainable and immeasurable.

By comparison, in Idaho, a new fish consumption rule is nearing final adoption. That rule has been updated to reflect EPA's comments, which support using a daily fish consumption amount that's less than half of the amount the agency required for Washington citizens and a lifetime cancer risk of one in 100,000 compared to the one in 1,000,000 for Washington's rule. For PCBs, those differences resulted in a standard of 190 ppq in Idaho, compared to Washington's 7 ppq. This will influence the very watershed that feeds the Spokane River. Notable is that Idaho is not yet a delegated state, and EPA still has primary regulatory authority.

We also question the process EPA used with this rulemaking action. Under 40 CFR 131.21 and .22, the federal government is required to notify states of any water quality standards disapproval and allow states 90 days to remedy the objection. EPA's sequence of decision-making, providing notice, and rule promulgation did not follow such a timeline. This precludes a state/federal government process to re-evaluate the legal and public policy merits of each position.

February 7, 2016

Donald Benton, Senior White House Adviser for the EPA Transition

Doug Ericksen, Communications Director for the EPA Transition

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Ultimately, EPA is asking us to accept an undefined and potentially significant future liability for pollution control, one that easily could threaten our community's and citizens' financial health. Our families and vulnerable citizens simply can't afford large increases in costs for essential basic services like wastewater processing and clean drinking water, especially when those increases won't achieve the desired result.

Thank you for taking the time to review this material to see if there is a path forward for reconsideration. Please let me if we can provide any additional information.

Sincerely,

A handwritten signature in black ink, appearing to read "David A. Condon". The signature is fluid and cursive, with the first name "David" being the most prominent part.

David A. Condon

Mayor